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LOK SABHA

The following Bills were introduced in Lok Sabha on the 30th November, 1956:—

BILL* No. 78 OF 1956

A Bill to increase or modify the rates of duty on certain goods imported into India and to impose duties of excise on certain goods produced or manufactured in India and to increase the stamp duty on bills of exchange.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Finance (No. 2) Act, 1956.

Short title
and com-
mencement.

(2) Section 4 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. The Indian Tariff Act, 1934 (hereinafter referred to as the Tariff Act), shall be amended in the manner specified in Parts I, II and III of the First Schedule.

Amendment
of Act 32 of
1934.

3. In the First Schedule to the Central Excises and Salt Act, 1944, after Item No. 25, the following Items shall be inserted, namely:—

Amendment
of Act 1 of
1944.

“ 26 Rayon and synthetic fibres and yarn . Rupee one and annas eight per lb.

27 Motor cars, including taxi cabs, driven by internal combustion engines, with a carrying capacity of not more than nine persons, but excluding—

(i) 4-cylinder cars of not more than 20 horse power by Royal Automobile Club (R.A.C.) rating.

(ii) 6-cylinder cars of not more than 16 horse power by Royal Automobile Club (R.A.C.) rating.”

The President has, in pursuance of clause (1) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to the Lok Sabha, the introduction of the Bill.

Amendment
of Schedule
1, Act 2 of
1899.

4. The Indian Stamp Act, 1899, shall be amended in the manner specified in the Second Schedule.

Declaration under the Provisional Collection of Taxes Act, 1931.

It is hereby declared that it is expedient in the public interest that the provisions of clause 2 and clause 3 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931. 16 of 1931

THE FIRST SCHEDULE

(See section 2)

PART I

In the First Schedule to the Tariff Act,—

(i) In Item No. 8(2), for the existing entries in the fourth and sixth columns, the entries “45 per cent. *ad valorem*” and “35 per cent. *ad valorem*” respectively shall be substituted.

(ii) In Item No. 19(3), for the existing entry in the fourth column, the entry “60 per cent. *ad valorem*” shall be substituted.

(iii) In Items Nos. 21(3), 31, 31(2), 31(3), 32(3), 41 and 59, for the existing entries against each of them in the fourth column, the entry “50 per cent. *ad valorem*” shall be substituted.

(iv) In Item No. 22(1), for the existing entries in the fourth column against sub-items (a), (b), (c), (d) and (e), the entries “Rs. 4-8 per Imperial gallon”, “Twelve annas per bottle”, “Six annas per bottle”, “Three annas per bottle” and “Rs. 6 per Imperial gallon” respectively shall be substituted.

(v) In Item No. 22(2), for the existing entries in the fourth column against sub-items (a), (b), (c), (d) and (e), the entries “Rs. 9 per Imperial gallon”, “Rs. 1-8 per bottle”, “Twelve annas per bottle”, “Six annas per bottle” and “Rs. 12 per Imperial gallon” respectively shall be substituted.

(vi) In Item No. 22(3), for the existing entries in the fourth column against sub-items (a) and (b), the entries “Rs. 60 per Imperial gallon” and “Rs. 35 per Imperial gallon” respectively shall be substituted.

(vii) In Item No. 22(4)—

(a) for the existing entries in the fourth column against sub-items (a), (b)(i) and (b)(ii), the entries “Rs. 120 per Imperial gallon of the strength of London proof”, “Rs. 150 per Imperial gallon” and “Rs. 120 per Imperial gallon of the strength of London proof” respectively shall be substituted; and

(b) in proviso (a) to the Item, for the figures “25” the figures “100” shall be substituted.

(viii) In Items Nos. 28(14), 52 and 78, for the existing entries against each of them in the fourth column, the entry “100 per cent. *ad valorem*” shall be substituted.

(ix) In Item No. 29(1), for the existing entry in the fourth column, the entry "Eight annas per linear foot" shall be substituted.

(x) In Items Nos. 30(13) and 30(15), for the existing entries in the fourth column against each of the sub-items, the entry "20 per cent. *ad valorem*" shall be substituted.

(xi) In Item No. 31(1), for the existing entries in the fourth and sixth columns, the entries "60 per cent. *ad valorem*" and "50 per cent. *ad valorem*" respectively shall be substituted.

(xii) In Item No. 47(2), for the existing entry in the fourth column, the entry "Rs. 3 per lb." shall be substituted.

(xiii) In Items Nos. 48(2), 48(6) and 49(3), for the figures "66 $\frac{2}{3}$ " in the fourth column, the figures "80" shall be substituted.

(xiv) In Item No. 49(4), for the figures "35" and "25" in the fourth and fifth columns, the figures "80" and "70" respectively shall be substituted.

(xv) In Items Nos. 51(1) and 51(3), for the existing entries against each of them in the fourth column, the entry "100 per cent. *ad valorem* or Rs. 5 per lb., whichever is higher" shall be substituted.

(xvi) In Item No. 51(2), for the existing entries in the fourth column against sub-items (a) and (b), the entries "100 per cent. *ad valorem* or Rs. 5 per lb., whichever is higher" and "100 per cent. *ad valorem* or Rs. 4 per lb., whichever is higher" respectively shall be substituted.

(xvii) In Item No. 71(13), for the existing entries in the fourth column against each of the sub-items (a), (b) and (c), the entry "100 per cent. *ad valorem* or fifteen annas per foot, whichever is higher" shall be substituted.

(xviii) In Item No. 72(7), in the third column, the word "Revenue" shall be inserted, and for the existing entry in the fourth column, the entry "10 per cent. *ad valorem*" shall be substituted.

(xix) In Items Nos. 73, 73(1) and 77, for the existing entries against each of them in the fourth and fifth columns, the entries "40 per cent. *ad valorem*" and "30 per cent. *ad valorem*" respectively shall be substituted.

(xx) In Item No. 77(5), for the existing entries in the fourth and fifth columns, the entries "50 per cent. *ad valorem*" and "40 per cent. *ad valorem*" respectively shall be substituted.

(xxi) In Item No. 87, for the existing entry in the fourth column, the entry "35 per cent. *ad valorem*" shall be substituted.

PART II

In the First Schedule to the Tariff Act, for Items Nos. 30(1), 71, 72(11) and 85, the following Items shall be substituted, namely:—

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
30(1)	Dyes derived from coal-tar, and coal-tar derivatives used in any dyeing process, all sorts, not otherwise specified—					
	(a) Vat dyes (Paste)	Revenue	20 per cent. <i>ad valorem.</i>	..	..	..
	(b) Coupling dyes of the Naphthol group—					
	(i) naphthols	Revenue	20 per cent. <i>ad valorem.</i>	..	..	..
	(ii) bases	Revenue	20 per cent. <i>ad valorem.</i>	..	..	..
	(c) Others	Revenue	12 per cent. <i>ad valorem.</i>	..	..	..
71	Hardware, ironmongery and tools, all sorts not otherwise specified, including incandescent mantles but excluding machine tools and agricultural implements—					
	(a) tools	Revenue	35 per cent. <i>ad valorem.</i>	..	..	..
	(b) others	Revenue	50 per cent. <i>ad valorem.</i>	..	..	..

72 (II) Sewing machines to be worked by manual labour or which require for their operation less than one quarter brake-horsepower, and parts of such sewing machines—

(a) the head, whether with or without the hand attachment ;	Preferential revenue.	Rate of duty actually charged at the time for such products of the United Kingdom origin <i>plus</i> 10 per cent. <i>ad valorem</i> .	35 per cent. <i>ad valorem</i> or Rs. 75 whichever is higher.	..
(b) other parts, including the hand attachment if imported separately.	Preferential revenue.	75 per cent. <i>ad valorem</i> .	65 per cent. <i>ad valorem</i> .	..

85 Buttons, studs and cuff links—

(a) made of metals, including buttons, studs and cuff links made of or plated with gold or silver or both.	Revenue	100 per cent. <i>ad valorem</i>.	..	..
(b) made of porcelain	Revenue	100 per cent. <i>ad valorem</i>.	..	..
(c) made of plastics	Protective	100 per cent. <i>ad valorem</i> or one rupee per gross, whichever is higher.	..	December 31st, 1959.
(d) not otherwise specified, but excluding jewellery.	Revenue	100 per cent. <i>ad valorem</i>.	..	..

PART III

In the First Schedule to the Tariff Act, the following Items shall be inserted in their appropriate places:—

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
1	2	3	4	5	6	7
21(10)	Saffron	Revenue	60 per cent. <i>ad valorem</i>.	..	..	..
46(6)	Staple fibre (excluding yarn) . . .	Revenue	25 per cent. <i>ad valorem</i> plus the excise duty for the time being leviable on like products if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty.	..	..	..

THE SECOND SCHEDULE

(See section 4)

In Schedule I to the Indian Stamp Act, 1899, in entry 13, for items (b) and (c), the following items shall be substituted, namely:—

Description of Instrument	Proper Stamp duty
“(b) where payable otherwise than on demand—	
(i) where payable not more than three months after date or sight—	
if the amount of the bill or note does not exceed Rs. 500.	One rupee four annas
if it exceeds five hundred but does not exceed Rs. 1,000.	Two rupees eight annas.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 1,000.	Two rupees eight annas.
(ii) where payable more than three months but not more than six months after date or sight—	
if the amount of the bill or note does not exceed Rs. 500.	Two rupees eight annas.
if it exceeds Rs. 500 but does not exceed Rs. 1,000.	Five rupees.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 1,000.	Five rupees.
(iii) where payable more than six months but not more than nine months after date or sight—	
if the amount of the bill or note does not exceed Rs. 500.	Three rupees twelve annas.
if it exceeds Rs. 500 but does not exceed Rs. 1,000.	Seven rupees eight annas.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 1,000.	Seven rupees eight annas.
(iv) where payable more than nine months but not more than one year after date or sight—	
if the amount of the bill or note does not exceed Rs. 500.	Five rupees.
if it exceeds Rs. 500 but does not exceed Rs. 1,000.	Ten rupees.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 1,000.	Ten rupees.
(c) where payable at more than one year after date or sight—	
if the amount of the bill or note does not exceed Rs. 500.	Ten rupees.
if it exceeds Rs. 500 but does not exceed Rs. 1,000.	Twenty rupees.
and for every additional Rs. 1,000 or part thereof in excess of Rs. 1,000.	Twenty rupees.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to increase the import duties on certain items and the Notes on Clauses explain the proposals contained in the Bill. It also proposes to levy on rayon and synthetic fibres and yarns produced in India and the more expensive types of motor cars manufactured in this country certain duties of excise. Under the Provisional Collection of Taxes Act, 1931, these increases and levies take effect immediately.

The Bill also seeks to increase the stamp duties on bills of exchange.

NEW DELHI;

The 30th November, 1956.

T. T. KRISHNAMACHARI.

Notes on Clauses.

Clause 2 seeks to increase the import duties on certain items. The principal changes are:—

(i) duties on wines and spirits are proposed to be raised by approximately 25% to 50%;

(ii) duties on imported woollen fabrics, hosiery, carpets, etc. are proposed to be increased to the same extent;

(iii) the present *ad valorem* duty on sewing machines is proposed to be raised; at the same time ensuring that a minimum specific duty of seventy-five rupees *per* sewing machine is payable in all cases;

(iv) the duty on clocks and watches is proposed to be raised from 78 $\frac{3}{4}$ % to 100%;

(v) the import duty on certain coal-tar dyes is proposed to be increased from 12% to 20%.

BILL* NO. 79 OF 1956

A Bill further to amend the Indian Income-tax Act, 1922, for the purpose of imposing a tax on capital gains and for certain other purposes and to prescribe the rate of super-tax on companies for the financial year 1957-58.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Finance (No. 3) Act, 1956.

(2) It shall come into force on the 1st day of April, 1957.

Amendment
of section 2.

2. In section 2 of the Indian Income-tax Act, 1922 (hereinafter ¹¹ of 1922. referred to as the principal Act), in the *Explanation* to clause (6A), the following shall be inserted at the end, namely:—

“and before the 1st day of April, 1956.”

Amendment
of section 10.

3. After sub-section (2A) of section 10 of the principal Act, the following sub-sections shall be inserted, namely:—

“(2B) Where for the purpose of computing under this section the profits or gains of a company for any previous year an allowance is made under clause (vi), clause (via), clause (vib) or clause (vii) of sub-section (2) an amount equal to the sum of all the allowances so made shall be included in the total income of the previous year as “profits and gains” unless the company deposits with the Central Government before the 30th day of June of the year succeeding the previous year—

such percentage, not exceeding twenty-five, as may, from time to time, be notified by the Central Government, of the accumulated profits and reserves of the company as at the end of the year preceding the previous year, to the extent to which such profits and reserves are not represented by the fixed assets of the company, *plus*

such percentage, not exceeding seventy-five, as may, from time to time, be notified by the Central Government, of the amount by which the sum of the following amounts, namely:—

(a) the total income of the company for the previous year, as reduced by the amount of income-tax and super-tax payable in respect thereof and by the dividends, if any declared during the previous year, and

The President has, in pursuance of clause (1) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to the Lok Sabha, the introduction of the Bill.

(b) the sum of the allowances made under the clauses aforesaid

exceeds the sum of rupees one lakh.

(2C) The Central Government may make rules providing for the manner in which the deposits referred to in sub-section (2B) may be made, the time when and the manner in which refunds of any such deposit shall be made whether with or without interest, and in particular the refund at any time of any such deposit or part thereof where the refund is claimed for carrying out any such purpose connected with the business of the company as is approved by the Central Government."

4. For section 12B of the principal Act, the following shall be substituted, namely:—

Substitution
of new
section for
section 12B.
Capital gains.

"12B. (1) The tax shall be payable by an assessee under the head "Capital Gains" in respect of any profits or gains arising from the sale, exchange, relinquishment or transfer of a capital asset effected after the 31st day of March, 1956, and such profits and gains shall be deemed to be income of the previous year in which the sale, exchange, relinquishment or transfer took place:

Provided that any distribution of capital assets on the total or partial partition of a Hindu undivided family or under a deed of gift, bequest or will shall not for the purposes of this section be treated as a sale, exchange, relinquishment or transfer of the capital assets:

Provided further that the transfer of a capital asset by a company to a subsidiary company, the whole of the share capital of which is held by the parent company or by the nominees thereof, shall not be treated as a sale, exchange or transfer within the meaning of this section where the subsidiary company is resident in the taxable territories and is registered under the Indian Companies Act, 1956, so however that for the purposes of clause (vi) or clause (vii) of sub-section (2) of section 10, the cost or the written down value, as the case may be, of the transferred capital asset shall be taken to be the same as it would have been if the parent company had continued to hold the capital asset for the purposes of its business.

(2) The amount of a capital gain shall be computed after making the following deductions from the full value of the consideration for which the sale, exchange, relinquishment or transfer of the capital asset is made, namely:—

"(i) expenditure incurred solely in connection with such sale, exchange, relinquishment or transfer;

(ii) the actual cost to the assessee of the capital asset, including any expenditure of a capital nature incurred and borne by him in making any additions or alterations thereto, but excluding any expenditure in respect of which any allowance is admissible under any provision of sections 8, 9, 10 and 12:

Provided that where a person who acquires a capital asset from the assessee, whether by sale, exchange, relinquishment or

transfer is a person with whom the assessee is directly or indirectly connected, and the Income-tax Officer has reason to believe that the sale, exchange, relinquishment or transfer was effected with the object of avoidance or reduction of the liability of the assessee under this section, the full value of the consideration for which the sale, exchange, relinquishment or transfer is made shall, with the prior approval of the Inspecting Assistant Commissioner of Income-tax, be taken to be the fair market value of the capital asset on the date on which the sale, exchange, relinquishment or transfer took place:

Provided further that where the capital asset is an asset in respect of which the assessee has obtained depreciation allowance in any year, the actual cost of the asset to the assessee shall be its written down value, as defined in section 10, increased or diminished, as the case may be, by any adjustment made under clause (vii) of sub-section (2) of that section:

Provided further that where the capital asset became the property of the assessee, or of the previous owner where the cost of the capital asset to the previous owner is to be taken in accordance with sub-section (3), before the 1st day of January, 1954, he may, on proof of the fair market value thereof on the said date to the satisfaction of the Income-tax Officer, substitute for the actual cost such fair market value which shall be deemed to be the actual cost to him of the asset, and which shall be reduced by the amount of depreciation, if any, allowed to the assessee after the said date and increased or diminished, as the case may be, by any adjustment made under clause (vii) of sub-section (2) of section 10:

Provided further that where the capital asset was on any previous occasion the subject of negotiations for its sale, exchange, relinquishment or transfer, any option or other money received and retained by the assessee in respect of such negotiations shall be deducted in computing the actual cost to him of such asset.

(3) Where any capital asset became the property of the assessee by succession, inheritance or devolution or on any distribution of capital assets on the total or partial partition of a Hindu undivided family or on the dissolution of a firm or other association of persons or on the liquidation of a company or under a deed of gift, or transfer on irrevocable trust, its actual cost allowable to him for the purposes of this section shall be its actual cost to the previous owner thereof, and the provisions of sub-section (2) shall apply accordingly; and where the actual cost to the previous owner cannot be ascertained, the fair market value at the date on which the capital asset became the property of the previous owner shall be deemed to be the actual cost thereof:

Provided that where the capital asset became the property of the assessee—

(i) before the 1st day of April, 1956, under a deed of gift or on the partition of a Hindu undivided family, the actual cost allowable to him shall be the fair market value of the capital asset on the date of the gift or the date of the

partition, as the case may be, if such value is greater than the actual cost to the previous owner or the fair market value thereof on the 1st day of January, 1954, where the third proviso to sub-section (2) applies;

(ii) on or after the 1st day of April, 1956, on the partition of a Hindu undivided family, the cost allowable to him shall be the fair market value on the date of the partition.

(4) Notwithstanding anything contained in sub-section (1), where a capital gain arises from the sale, exchange, relinquishment or transfer of a capital asset being property the income of which is chargeable under section 9 which in the two years immediately preceding the date on which the sale, exchange, relinquishment or transfer took place, was being used by the assessee or a parent of his mainly for the purposes of his own or the parent's own residence, and the assessee has within a period of one year before or after that date purchased a new property for the purposes of his own residence, then instead of the capital gain being charged to tax as income of the previous year in which the sale, exchange, relinquishment or transfer took place, it shall, if the assessee so elects in writing before the assessment is made, be dealt with in accordance with the following provisions of this sub-section, that is to say,—

(a) if the amount of the capital gain is greater than the cost of the new asset, the difference between the amount of the capital gain and the cost of the new asset shall be charged under this section as income of the previous year, or

(b) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under this section."

5. In section 17 of the principal Act,—

(a) for clause (ii) of sub-section (6), the following clause shall be substituted, namely:—

Amendment
of section 17.

"(ii) on the whole amount of such inclusion, income-tax equal to the amount which bears to the income-tax which would have been payable on his total income as reduced by two-thirds of the amount of such inclusion the same proportion as the whole amount of such inclusion bears to such reduced total income:

Provided that where the amount of such inclusion does not exceed the sum of five thousand rupees or the total income does not exceed the sum of ten thousand rupees such income-tax shall be nil and in any other case such income-tax shall not exceed one-half of the amount by which the amount of such inclusion exceeds the sum of five thousand rupees;"

(b) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) Where the total income of a company includes any income chargeable under the head "Capital Gains", the super-tax payable by it shall be calculated on its total income as reduced by the amount of such inclusion."

Amendment
of section
23A.

6. In section 23A of the principal Act,—

(a) in sub-section (1) for the words “at the rate of four annas in the rupee”, the words “at the rate of six annas in the rupee” shall be substituted.

(b) after the proviso to sub-section (1), the following further proviso shall be inserted, namely:—

“Provided further that in the case of a company referred to in sub-section (4), this section shall apply as if for the words “sixty per cent. of the total income” and “fifty-five per cent. of its total income” wherever they occur, the words “fifty per cent. of the total income” and “forty-five per cent. of its total income” respectively had been substituted.”

(c) in clause (i) of sub-section (2), for the words “in clause (a) of the proviso to that sub-section”, the words “in clause (a) of the first proviso to that sub-section” shall be substituted.

Amendment
of section 24.

7. In section 24 of the principal Act,—

(a) in sub-section (2B), the words “so however that no such loss shall be so carried forward for more than six years” shall be omitted;

(b) For the proviso to sub-section (2B), the following proviso shall be substituted, namely:—

“Provided that where the loss sustained by an assessee, not being a company, in any previous year does not exceed five thousand rupees, it shall not be carried forward.”

Rates of su-
per-tax on
companies
for the finan-
cial year
1957-58.

8. For the year ending on the 31st day of March, 1958, the rate of super-tax for the purposes of section 55 of the principal Act shall, in the case of every company, be as follows:—

On the whole of
the total income

Eight annas and nine
pies in the rupee:

Provided that—

(i) a rebate at the rate of seven annas per rupee of the total income shall be allowed in the case of any company which—

(a) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1958, has made the prescribed arrangements for the declaration and payment within India, of the dividends payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) of section 18 of that Act, and

(b) is such a company as is referred to in sub-section (9) of section 23A of the Income-tax Act, with total income not exceeding Rs. 25,000.

(ii) a rebate at the rate of six annas per rupee of the total income shall be allowed in the case of any company which satisfies condition (a) but not condition (b), of the preceding clause; and

(iii) a rebate at the rate of five annas and six pies per rupee on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of three annas per rupee on any other income included in the total income shall be allowed in the case of any company not entitled to a rebate under either of the preceding clauses:

Provided further that—

(i) the amount of the rebate under clause (i) or clause (ii), as the case may be, of the preceding proviso shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts, as the case may be, computed as hereunder:—

(a) on that part of the sum arrived at in accordance with clause (i) of the second proviso to paragraph D of Part II of the First Schedule to the Finance Act, 1956, as has not been deemed to have been taken into account, in accordance with clause (ii) of the said proviso, for the purpose of reducing the rebate mentioned therein to *nil*;

the whole amount of such part.

(b) on the amount representing the face value of any bonus shares or the amount of any bonus issued to its shareholders during the previous year with a view to increasing the paid-up capital, except to the extent to which such bonus shares or bonus have been issued out of premiums received in cash on the issue of its shares; and

at the rate of two annas per rupee.

(c) in addition, in the case of a company referred to in clause (ii) of the preceding proviso which has distributed to its shareholders during the previous year dividends in excess of six per cent. of its paid-up capital, not being dividends payable at a fixed rate—

on that part of the said dividends which exceeds 6 per cent. but does not exceed 10 per cent. of the paid-up capital;

at the rate of two annas per rupee.

on that part of the said dividends which exceeds 10 per cent. but does not exceed 18 per cent. of the paid-up capital;

at the rate of four annas per rupee.

on that part of the said dividends which exceeds 18 per cent. of the paid-up capital.

at the rate of six annas per rupee.

(ii) where the sum arrived at in accordance with clause (i) of this proviso exceeds the amount of the rebate arrived at in accordance with clause (i) or clause (ii), as the case may be, of the preceding proviso, only so much of the amounts of reduction mentioned in sub-clauses (a), (b) and (c) of clause (i) of this proviso as is sufficient, in that order, to reduce the rebate to *nil* shall be deemed to have been taken into account for the purpose:

Provided further that the super-tax payable by a company the total income of which exceeds rupees twenty-five thousand shall not exceed the aggregate of—

(a) the super-tax which would have been payable by the company if its total income had been rupees twenty-five thousand, and

(b) half the amount by which its total income exceeds rupees twenty-five thousand.

Explanation.—For the purposes of this section—

(i) the expression “paid-up capital” means the paid-up capital (other than capital entitled to a dividend at a fixed rate) of the company as on the first day of the previous year relevant to the assessment for the year ending on the 31st day of March, 1958, increased by any premiums received in cash by the company on the issue of its shares, standing to the credit of the share premium account as on the first day of the previous year aforesaid;

(ii) the expression “dividend” shall be deemed to include any distribution included in the expression “dividend” as defined in clause (6A) of section 2 of the principal Act;

(iii) where any portion of the profits and gains of the company is not included in its total income by reason of such portion being exempt from tax under any provision of the principal Act, the “paid-up capital” of the company, the amount distributed as dividends (not being dividends payable at a fixed rate), the amount representing the face value of any bonus shares and the amount of any bonus issued to the shareholders, shall each be deemed to be such proportion thereof as the total income of the company for the previous year bears to its total profits and gains for that year other than capital receipts, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profit and loss account for that year.

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to revive, with effect from the financial year 1957-58, the taxation of "Capital Gains", to prescribe the rate of super-tax applicable to companies for the financial year 1957-58 and to provide for a few connected matters.

NEW DELHI;

The 30th November, 1956.

T. T. KRISHNAMACHARI.

Notes on Clauses

Clause 2 amends the definition of "dividends" in clause (6A) of section 2 of the Income-tax Act, and provides that capital gains arising on and from the 1st April, 1956 will also come within the scope of "accumulated profits" of the company.

Clause 3 inserts a new sub-section (2B) in section 10 of the Income-tax Act, and provides that development rebate and depreciation allowances due to be allowed in the computation of income of companies will be added back, unless the companies deposit with the Government a certain amount as prescribed. Sub-section (2C) empowers the Central Government to make rules for refund of deposits and other connected matters.

Clause 4 re-enacts section 12B of the Income-tax Act with modifications and provides that capital gains arising on or after the 1st April, 1956, on the sale, exchange, relinquishment or transfer of a capital asset, will be charged to income-tax.

Clause 5 amends section 17 of the Income-tax Act, and provides the basis of computation of tax on the capital gains included in the total income and on the remainder of the total income.

Clause 6 amends section 23A of the Income-tax Act, and provides for the increase of the rate of additional super-tax applicable to a non-investment company which has not distributed the minimum dividends, to six annas per rupee with effect from the financial year 1957-58. The minimum distribution in the case of an industrial company will be reduced to 50 per cent. of the distributable profits, as against 60 per cent. applicable to other non-investment companies.

Clause 7 amends section 24 of the Income-tax Act, and provides for the carry forward of capital losses arising after 1st April, 1956 indefinitely for purposes of set off against capital gains arising in subsequent years.

Clause 8 prescribes the rate of super-tax applicable to all companies for the financial year 1957-58.

EXPLANATORY MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill proposes to empower the Central Government to make rules in respect of the following matters—

- (i) to prescribe, from time to time, subject to certain limits, the percentages for the calculation of the amount to be deposited.
- (ii) to prescribe the manner in which the deposits may be made,
- (iii) to prescribe the time when and the manner in which refunds of deposits may be made, and
- (iv) to prescribe the rate of interest, if any, for the amounts deposited.

The delegation is of a normal character.

M. N. KAUL,
Secretary.

